IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 561 OF 2003

IN

SUMMARY SUIT NO. 563 OF 2003

Sneha R. Talreja .. Plaintiff

versus

Mazhar Marine Services & Anr. .. Defendant

...

Mr.Ramesh Jain for the plaintiff.

Mr.Bipin Joshi for the defendant nos.1 and 5.

CORAM : D.G. KARNIK,J.

DATED : 9th March 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. The learned counsel for the plaintiff hands in affidavit of service. Affidavit is taken on record. Shri Joshi, learned counsel for the defendant nos.1 and 5 admits receipt of the Summons for Judgement. Though Summons for Judgement was served on the

defendants in July 2003, the defendants have not applied for leave to defend nor filed an affidavit in reply. In the circumstances, averments made in the plaint are deemed to be accepted. The learned counsel for the plaintiff hands in original documents along with a list. The documents are taken on record and marked Exhibit-A for identification.

3. I have perused the plaint and also the documents. According to the plaintiff for a valuable consideration, the defendant no.1 drew two bills of exchanges for Rs.50,000/- and Rs.20,000/- on the defendant no.2. The defendant no.2 accepted the said bills of exchanges and signed acceptance on the bills. Thereafter, the defendant no.2 in the capacity as a partner of defendant no.1 issued two cheques of Rs.50,000/- and Rs.20,000/- to the plaintiffs. However, the first cheque of Rs.20,000/- when presented was dishonoured. The dishonour memo is filed on record. The second cheque was not presented as requested by defendant no.1. The defendant nos.2 to 5 being the partners of defendant no.1 are liable as two bills have been drawn by defendant no.1 and cheque has also been issued by defendant no.1. In the absence of any application for leave to defend or affidavit in reply, the

plaintiff is entitled to a decree under Order 37 Rule3(6) of the Code of Civil Procedure. Hence, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:-

4. The defendant shall pay to the plaintiff a sum of Rs.87,950.67 together with interest thereon on the principal sum of Rs.70,000/- at 9% p.a. from the date of the suit till payment and all costs of the suit.

5. Issue Court fee refund certificate as per rules.

D.G. KARNIK, J